A SANTAMIL SELVI ALAU MALAY & ORS v. DATO' SERI MOHD NAJIB TUN ABDUL RAZAK & ORS

COURT OF APPEAL, PUTRAJAYA
MOHD ZAWAWI SALLEH JCA
ABDUL RAHMAN SEBLI JCA
ZAMANI A RAHIM JCA
[CIVIL APPEAL NO: W-01(IM)(NCVC)-20-01-2015]
3 JUNE 2015

CIVIL PROCEDURE: *Appeal – Notice of appeal – Striking out – Application for – Whether notice of appeal bad in law – Seven sealed orders issued by High Court – Whether appellants should have filed seven notices of appeal instead of one – Decision of High Court embodied in single written grounds – Whether imperative for appellants to set out details of each and every one decision appealed against – Whether notice bad for ambiguity and uncertainty – Whether defect in notice curable – Rules of Court 2012, O. 1A, O. 18 r. 19(1) – Rules of the Court of Appeal 1994, r. 5*

The appellants filed a civil suit against the respondents in the High Court for tort of conspiracy to cause injury by unlawful means. The respondents who were represented by different sets of lawyers filed eight separate applications to strike out the suit on the common ground that the writ and amended statement of claim did not disclose any reasonable cause of action, was scandalous, frivolous and vexatious and/or an abuse of the court process. All the applications were filed pursuant to O. 18 r. 19(1) of the Rules of Court 2012 ('ROC'). The High Court judge allowed the respondents' applications and struck out the appellants' writ and amended statement of claim. Dissatisfied with the decisions, the appellants filed an appeal and there was only one notice of appeal filed by the appellants. All the respondents, except for the eighth respondent, applied for the striking out of the appeal on the ground that the notice of appeal was bad in law. It was argued that since seven orders were drawn up and seven sealed orders were issued by the High Court, the appellants should have filed seven notices of appeal instead of only one. However, the appellants contended that even though the hearing before the High Court involved separate applications by different respondents, the hearing of the matter took place simultaneously and the judgment of the High Court was embodied in one single written grounds of decision. It was submitted that since the grounds of judgment covered all arguments put forth by all parties, which were all premised on the same grounds that were ventilated before the High Court Judge, a single notice of appeal encompassing all the orders made was perfectly in order.

Held (allowing respondents' applications; striking out appeal with costs) Per Abdul Rahman Sebli JCA delivering the judgment of the court:

(1) It is a statutory requirement that the notice of appeal must be in the prescribed Form 1 of First Schedule of r. 5 of the Rules of the Court of Appeal 1994 ('the RCOA'). The RCOA envisages two situations: (i) where a dissatisfied party appeals against one decision; and (ii) where a dissatisfied party appeals against more than one decision. It also includes a situation where the dissatisfied party appeals against only part of the decision or decisions given. (para 13)

(2) Where the appeal is against one decision involving a single respondent or involving more than one respondent in a joint action, it will be in order for the appellant to state in a single notice of appeal that he is appealing against 'the whole of the said decision' without setting out the details of the decision appealed against. But where the appeal is against more than one decision arising from separate interlocutory applications made by different parties to the action, it is incumbent on the appellant to set out the details of the decisions in the notice of appeal. (para 14)

(3) In the present case, since more than one decision was given by the High Court in favour of nine different applicants arising from eight separate and distinct applications, it was imperative for the appellants to set out the details of each and every one of the decisions that they were appealing against. It was not sufficient for the appellants to state in general terms in a single notice of appeal that their appeal was against 'the whole of the said decision' (in the singular) without specifying the particulars of the decisions appealed against. (para 15)

(4) Given the fact that there were eight separate applications, the trial judge was procedurally bound to give eight separate decisions and not just one. However, there were separate decisions given for each of the eight applications and although only one ground of decision was delivered, it did not alter the fact that eight separate decisions were given. (paras 17 & 18)

(5) The notice of appeal which was expressed to be against the whole of the 'decision' and against 'all' the respondents, gave the impression that the appeal was against one decision only and involving all the respondents. It did not convey with sufficient clarity which particular decision favouring which particular respondent that the appellants were appealing against. The appellants should have filed seven separate notices of appeal or alternatively filed one notice of appeal but setting out the details of each decision appealed against. (paras 30 & 31)

(6) The objections raised by the respondents to the notice of appeal could not be trivialised as being mere procedural or technical acrobatics. It went to the jurisdiction of the court. The objections raised were premised on a statutory requirement, a condition precedent in

entertaining the appeal and not a mere irregularity that could be waived. The notice was therefore bad for ambiguity and uncertainty. The defect in the notice of appeal was fatal and could not be cured by O. 1A of the ROC. (paras 30-32)

Bahasa Malaysia *Translation Of Headnotes*

Perayu-perayu memfailkan guaman sivil terhadap responden-responden di Mahkamah Tinggi bagi tort persubahatan untuk mengakibatkan kerugian dengan cara yang menyalahi undang-undang. Responden-responden yang diwakili oleh peguam-peguam yang berbeza memfailkan lapan permohonan yang berasingan untuk membatalkan guaman tersebut atas alasan bahawa writ dan penyataan tuntutan terpinda tidak mendedahkan apa-apa kausa tindakan yang munasabah, mengaibkan, remeh atau menyusahkan dan/atau adalah satu penyalahgunaan proses mahkamah. Kesemua permohonan-permohonan tersebut difailkan menurut A. 18 k. 19(1) Kaedah-Kaedah Mahkamah 2012 ('KMT'). Hakim Mahkamah Tinggi membenarkan permohonan responden-responden dan membatalkan writ dan penyataan tuntutan terpinda perayu-perayu. Tidak berpuas hati dengan keputusan-keputusan tersebut, perayu-perayu memfailkan rayuan dan hanya satu notis rayuan difailkan oleh perayu-perayu. Kesemua responden, kecuali responden kelapan, memohon pembatalan rayuan tersebut atas alasan bahawa notis rayuan tersebut adalah cacat dari segi undang-undang. Dihujahkan bahawa oleh sebab tujuh perintah telah dibuat dan tujuh perintah bermeterai telah dikeluarkan oleh Mahkamah Tinggi, perayu-perayu sepatutnya memfailkan tujuh rayuan dan bukan hanya satu. Walau bagaimanapun, perayu-perayu menghujahkan bahawa walaupun perbicaraan di Mahkamah Tinggi melibatkan permohonan yang berasingan daripada responden-responden yang berbeza, perbicaraan perkara tersebut dilakukan pada masa yang sama dan penghakiman Mahkamah Tinggi terangkum dalam satu alasan penghakiman bertulis. Adalah dihujahkan bahawa oleh sebab alasan penghakiman tersebut meliputi kesemua penghujahan yang dikemukakan oleh kesemua pihak, yang kesemuanya berasaskan alasan-alasan yang sama yang dikemukakan di hadapan Hakim Mahkamah Tinggi, satu notis rayuan yang merangkumi kesemua perintah yang dibuat adalah teratur.

Diputuskan (membenarkan permohonan responden-responden; membatalkan rayuan dengan kos)

Oleh Abdul Rahman Sebli HMR menyampaikan penghakiman mahkamah:

(1) Adalah satu keperluan statutori bahawa notis rayuan mesti dibuat seperti yang diperuntukkan dalam Borang 1 Jadual Pertama, k. 5 Kaedah-Kaedah Mahkamah Rayuan 1994 ('KMR'). KMR membayangkan dua keadaan: (i) di mana pihak yang tidak berpuas hati merayu terhadap satu keputusan; dan (ii) di mana pihak yang tidak berpuas hati merayu terhadap lebih daripada satu keputusan. Ia juga termasuk keadaan di mana pihak yang tidak berpuas hati merayu terhadap hanya satu bahagian keputusan atau keputusan-keputusan yang diberikan.

(2) Apabila rayuan adalah terhadap satu keputusan yang melibatkan seorang responden atau melibatkan lebih daripada seorang responden dalam tindakan bersama, adalah wajar bagi perayu menyatakan dalam satu notis rayuan bahawa dia merayu terhadap 'keseluruhan keputusan tersebut' tanpa mengemukakan butiran keputusan yang dirayunya. Tetapi di mana rayuan adalah lebih daripada satu keputusan yang timbul daripada permohonan-permohonan interlokutori yang berasingan yang dibuat oleh pihak-pihak dalam tindakan yang berbeza, adalah penting bagi perayu mengemukakan butiran keputusan-keputusan tersebut dalam notis rayuan.

(3) Dalam kes ini, oleh sebab lebih daripada satu keputusan diberikan oleh Mahkamah Tinggi yang memihak kepada sembilan pemohon yang berbeza yang berbangkit daripada lapan keputusan yang berasingan dan berbeza, adalah penting bagi perayu-perayu mengemukakan butiran setiap satu keputusan yang dirayu mereka. Adalah tidak mencukupi bagi perayu-perayu menyatakan dalam terma umum dalam satu notis rayuan bahawa rayuan mereka adalah 'terhadap keseluruhan keputusan tersebut' (dalam bentuk tunggal) tanpa menetapkan butiran keputusan yang dirayukan.

(4) Berdasarkan fakta bahawa terdapat lapan permohonan yang berbeza, hakim bicara adalah secara prosedur terikat untuk memberikan lapan keputusan yang berasingan dan bukan hanya satu. Walau bagaimanapun, terdapat keputusan yang berasingan yang diberikan bagi setiap lapan permohonan dan walaupun hanya satu alasan keputusan yang diberikan, ia tidak mengubah fakta bahawa lapan keputusan yang berasingan telah diberikan.

(5) Notis rayuan tersebut yang dinyatakan adalah terhadap keseluruhan 'keputusan' dan terhadap 'kesemua' responden-responden, memberikan andaian bahawa rayuan tersebut adalah terhadap satu keputusan sahaja dan melibatkan kesemua responden. Ia tidak menyampaikan dengan cukup jelas keputusan yang mana satu yang memihak kepada responden dan yang mana satu yang dirayu oleh perayu-perayu. Perayu-perayu sepatutnya memfailkan tujuh notis rayuan yang berasingan atau secara alternatifnya memfailkan satu notis rayuan tetapi mengemukakan butiran setiap keputusan yang dirayukan.

(6) Bantahan yang dibangkitkan oleh responden-responden kepada notis rayuan tidak boleh dipandang remeh sebagai hanya melibatkan prosedur atau perkara teknikal. Ia melibatkan bidang kuasa mahkamah. Bantahan yang dibangkitkan adalah berasaskan keperluan statutori, satu syarat awalan dalam mempertimbangkan rayuan dan bukan salah aturan semata-mata yang boleh diketepikan. Oleh itu, notis tersebut adalah tidak teratur disebabkan oleh ketaksaan dan ketidakpastian. Kecacatan dalam notis rayuan adalah memudaratkan dan tidak boleh diperbetulkan oleh A. 1A KMT.

Case(s) referred to:

Abdul Jalal Ahmad & Ors v. Pegawai Pemegang Harta Cawangan Negeri Sembilan & Ors [2004] 7 CLJ 293 HC ***(dist)***

Berjaya Development Sdn Bhd v. Keretapi Tanah Melayu Bhd [2013] 1 LNS 1331 CA ***(dist)***

Dixon v. Allgood [1999] EWCA Civ 1163 ***(dist)***

Hawes v. Chief Constable of Avon and Somerset Constabulary, The Times Law Reports May 20, 1993 ***(dist)***

Rasheed v. Secretary of State for the Home Department; Mughal v. Secretary of State for the Home Department; Bashir v. Secretary of State for the Home Department; and other applications [2014] EWCA Civ 1493 ***(dist)***

Woodsville Sdn Bhd v. Tien Ik Enterprises Sdn Bhd & Ors And Other Appeals [2005] 2 CLJ 853 CA ***(dist)***

Legislation referred to:

Rules of Court 2012, O. 1A, O. 18 r. 19(1)
Rules of the Court of Appeal 1994, rr. 5, 103, 104

For the 1st and 2nd applicants - Mohd Hafarizam Harun; M/s Hafarizam Wan & Aisha Mubarak
For the 3rd applicant - Dhinesh Bhaskaran (Denise Tan Kae Ji with him); M/s Shearn Delamore & Co
For the 4th applicant - Archana Rajagopal; M/s Thangaraj & Assocs
For the 5th and 6th applicants - Darryl SC Goon; M/s Zul Rafique & Partners
For the 7th applicant - Satharuban Sivasubramaniam; M/s Satha & Co
For the 9th applicant - Chong Ian Shin; M/s Arulampalam & Co
For the respondents - Americk Sidhu; M/s Americk Sidhu

[Editor's note: For the High Court judgment, please see A Santamil Selvi Alau Malay & Ors v. Dato' Sri Mohd Najib Tun Abdul Razak & Ors [2015] 4 CLJ 1035.]

Reported by S Barathi

JUDGMENT

Abdul Rahman Sebli JCA:

[1] This is our common judgment in respect of all eight applications filed by the respondents.

[2] In the High Court at Kuala Lumpur, the appellants filed a civil suit against the respondents for the tort of conspiracy to cause injury by unlawful means. For the record, the first respondent is the serving Prime Minister of Malaysia whilst the second respondent is his wife.

[3] The respondents who were represented by seven different sets of lawyers filed eight separate applications to strike out the suit on the common ground that the writ and amended statement of claim did not disclose any reasonable cause of action, was scandalous, frivolous and vexatious and/or an abuse of the court process. All eight applications were filed pursuant to O. 18 r. 19(1) of the Rules of Court 2012 ("the Rules").

[4] The applications by the first and second respondents were supported by the affidavit of Dato' Seri Mohd Najib bin Tun Abdul Razak, the third respondent by the affidavit of Ahmad Johari bin Abdul Razak, the fourth respondent by the affidavit of Dato' Mohd Nazim bin Tun Abdul Razak, the fifth and sixth respondents by the affidavit of Tan Sri Cecil Wilbert Mohanaraj Abraham, the seventh respondent by the affidavit of Zainal Abidin bin Muhayat, the eighth respondent by the affidavit of Deepak Jaikishen a/l Jaikishan and the ninth respondent by the affidavit of Arulampalam a/l Mariampillai.

[5] After hearing arguments on 20 November 2014, the learned judge reserved judgment to 11 December 2014, on which date she allowed the respondents' applications and struck out the writ and amended statement of claim. In the penultimate paragraph of her grounds of judgment, the learned judge made the following pronouncements:

> Accordingly Enclosures 17, 19, 25, 29, 30 and 33 are allowed with costs and Enclosure 21 and 23 are also allowed but with no order as to costs. The Writ and the Amended SOC dated 23.6.2014 against all the Defendants are hereby struck out.

[6] From the pronouncements, it is patently clear that she made eight similar but separate decisions, namely for encl. 17 (first and second respondents), encl. 19 (fourth respondent), encl. 21 (third respondent), encl. 23 (fifth and sixth respondents), encl. 25 (seventh respondent), encls. 29 & 30 (ninth respondent) and encl. 33 (eighth respondent). Two different orders were made on costs.

[7] Dissatisfied with the decisions, the appellants filed an appeal to this court *vide* notice of appeal dated 8 January 2015. This was the sole and only notice of appeal filed by the appellants and is couched in the following terms:

> TAKE NOTICE THAT A. Santamil Selvi a/p Alau Malay @ Anna Malay, Kishen a/l Balasubramaniam, Menaga a/p Balasubramaniam and Reeshi a/l Balasubramaniam, being dissatisfied with the decision of the Honourable Justice Datuk Hasnah Bte Dato' Mohamed Hashim given at the High Court Kuala Lumpur on the 11th day of December 2014, appeals to the Court of Appeal against the whole of the said decision granting the Order-in-Terms of all the Defendants' applications to strike out the Plaintiffs' claims under Order 18 rule 19(1) of the Rules of Court 2012.

[8] The appeal came up for hearing before us on 10 April 2015. Except for the eighth respondent (Deepak Jaikishan), the rest of the respondents by seven separate notices of motion applied to have the appeal struck out on the ground that the notice of appeal was bad in law. It was argued that since seven orders were drawn up and seven sealed orders issued by the High Court, seven notices of appeal should have been filed by the appellants instead of only one.

[9] The appellants took a different position. Their stand was that even though the hearing before the High Court involved separate applications by different respondents, the hearing of the matter took place simultaneously and the judgment of the High Court was embodied in one single written grounds of decision. Figuratively speaking, the appellants' answer to the respondents' argument was that the seven seas may be seven continents apart but all seven converge towards land.

[10] It was submitted that since the grounds of judgment covered all arguments put forth by all parties, which were all premised on the same grounds that were ventilated before the learned judge, a single notice of appeal encompassing all the orders made was perfectly in order.

[11] Having heard the competing arguments, we unanimously allowed the respondents' applications and struck out the appellants' appeal pursuant to the powers conferred upon us by rr. 103 and 104 of the Rules of the Court of Appeal 1994 ("the RCOA"). These are our grounds.

Rule 5 of the RCOA stipulates as follows:

> 5. Appeal to be by re-hearing on notice.
>
> (1) Appeals to the Court of Appeal shall be by way of re-hearing and shall be brought by giving notice of appeal.
>
> (2) Security for costs shall be given as provided in rule 17.
>
> (3) A notice of appeal shall substantially be in Form 1 in the First Schedule.
>
> (4) An appellant may appeal from the whole or part of a judgment or order and the notice of appeal shall state whether the whole or part only, and what part, of the judgment or order is complained of.

[12] Our attention was drawn to sub-r. (3) which provides that the notice of appeal shall substantially be in Form 1 in the first schedule. For ease of reference, we reproduce below Form 1 of the first schedule:

> NOTICE OF APPEAL
>
> Take notice that ... being dissatisfied with the decision(s) of the Honourable Mr. Justice ... given at ... on the ... day of ... 19 ... appeals to the Court of Appeal against
>
> [the whole of the said decision(s)
> either/or [such part only of the said decision(s)
> [as decides that
>
> (set out details)
>
> Dated this ... day of ... 19 ...
>
> ...
> Applicant
> Solicitor for the Appellant

[13] It is, therefore, a statutory requirement that the notice of appeal must be in the prescribed Form 1. We agree with learned counsel for the first and second respondents that the RCOA envisages two situations: one where a dissatisfied party appeals against one decision and second, where a dissatisfied party appeals against more than one decision. To that, we must add that it includes also a situation where the dissatisfied party appeals against part only of the decision or decisions given.

[14] In our view, where the appeal is against one decision involving a single respondent or involving more than one respondent in a joint action, it will be in order for the appellant to state in a single notice of appeal that he is appealing against "the whole of the said decision" without setting out the details of the decision appealed against. But where the appeal is against more than one decision arising from separate interlocutory applications made by different parties to the action, it is incumbent on the appellant to set out the details of the decisions in the notice of appeal.

[15] In the present case, since more than one decision was given by the High Court in favour of nine different applicants arising from eight separate and distinct applications, it was imperative for the appellants to set out the details of each and every one of the decisions that they were appealing against. We do not think it was sufficient for the appellants to state in general terms in a single notice of appeal that their appeal was against "the whole of the said decision" (in the singular) without specifying the particulars of the decisions appealed against.

[16] Likewise, a general reference to "the order-in-terms of all the defendants' applications to strike out" is not in our view sufficient compliance with the statutory requirement to set out the details. It was wrong and misleading for the appellants to refer to the eight decisions as being a 'decision' against 'all' the defendants when this was not a joint application by the nine applicants. In one respect at least, the decisions were not similar in that the learned judge made two different orders on costs.

[17] Given the fact that there were eight separate applications before the court, the learned judge was procedurally bound to give eight separate decisions and not just one. Indeed eight decisions were given by the learned judge in the instant case. The reason why only eight decisions were given although there were nine applicants involved was because the ninth respondent filed two applications which were heard together, namely encl. 29 and encl. 30. Only seven orders were drawn up and only seven sealed orders were issued by the court because only seven sets of solicitors were involved.

[18] At the risk of repeating ourselves, we must stress the point that although the eight striking out applications were heard together before a single judge and judgment delivered on a single date, the fact is, separate decisions were given for each of the eight applications. It is inconceivable that the eight decisions made by the learned judge were embodied in one

single decision. That is not borne out by the record, nor is it a logical proposition. The fact that only one grounds of decision was delivered does not alter the fact that eight separate decisions were given.

[19] It is an undisputed fact that the eight applications were premised on different facts, different issues and different arguments by different lawyers. In addition to that, there were seven different affidavits filed by seven different sets of solicitors. Each of the eight applications was also the subject of different consideration by the learned judge as can be seen from the grounds of judgment. It is abundantly clear she dealt with each application separately.

[20] It must further be noted that although all eight applications were made pursuant to O. 18 r. 19(1) of the Rules, not all were based on the same paragraphs of the sub-rule. The first and second respondents' applications were grounded on paras. (a), (b) and/or (d), the third respondent on paras. (a) or (b) and/or (d), the fourth respondent on paras. (a), (b), (c) and/or (d), the fifth and sixth respondents on paras. (a), (b), (c) and/or (d), the seventh and eighth respondents on paras. (a), (b), (c) and/or (d) and ninth respondent on paras. (a), (b) and/or (d).

[21] The eight applications were also filed on different dates and given different registration numbers by the High Court and since no formal order for consolidation was made, it was a mere procedural convenience that the eight applications were heard together. Against this backdrop, the single notice of appeal filed by the appellants against "the whole of the said decision" and against "all the defendants' applications" begs the question: Which of the eight decisions were the appellants appealing against?

[22] The appellants' argument would be tenable if their appeal was against the decision of the High Court in respect of the main suit. In that situation a single notice of appeal would be proper as the nine respondents were joint defendants and the reliefs prayed for against each of them were pleaded in a single statement of claim.

[23] Further, the court's decision would be confined to the main suit and to no others. In short, it would be against that one decision that the appellants' appeal would be directed at, unlike the present case where the appeal was directed at eight different decisions in respect of eight different applications by nine different applicants.

[24] In opposing the applications, learned counsel for the appellants relied on the following authorities: *Woodsville Sdn Bhd v. Tien Ik Enterprises Sdn Bhd & Ors And Other Appeals* [2005] 2 CLJ 853; [2005] 4 MLJ 218; *Abdul Jalal Ahmad & Ors v. Pegawai Pemegang Harta Cawangan Negeri Sembilan & Ors* [2004] 7 CLJ 293; [2005] 1 MLJ 736; *Berjaya Development Sdn Bhd v. Keretapi Tanah Melayu Bhd* [2013] 1 LNS 1331; [2014] 4 MLJ 606; *Hawes v. Chief Constable of Avon and Somerset Constabulary*, The Times Law Reports May 20, 1993; *Dixon v. Allgood* [1999] EWCA Civ 1163, (Court of Appeal) (Civil

A Division) 14 April 1999; *Rasheed v. Secretary of State for the Home Department; Mughal v. Secretary of State for the Home Department; Bashir v. Secretary of State for the Home Department; and other applications* [2014] EWCA Civ 1493.

[25] We have studied those judgments carefully and except for the decision of this court in *Berjaya Development Sdn Bhd* which we shall deal with shortly, we do not find any of them to be of real assistance in determining the issue before us, firstly, because the facts are materially different and, secondly, the passages highlighted by learned counsel are mostly remarks made in passing (*obiter dicta*) and do not form part of the *ratio decidendi* of the cases.

[26] As a matter of fact, the decision of the English Court of Appeal in *Hawes v. Chief Constable of Avon and Somerset Constabulary* (*supra*) runs contrary to the appellants' own position. In that case it was held, *inter alia*, that in the case of one hearing of more than one action, it was still necessary to file a notice of appeal in respect of each action.

[27] As for the case of *Berjaya Development Sdn Bhd* (*supra*), although the facts are not on all four with the facts of the present case, we find the judgment to be closest to the point under consideration. One of the issues raised in that case was whether it was possible for one notice of appeal to be filed for the three decisions that were given on two different dates by the High Court. It was held that this was possible provided the applications were heard together and the decision on the applications was given on a single date and the notice of appeal clearly described the applications involved and the respective decisions.

[28] At first blush, this part of the judgment appears to be favourable to the appellants. But the court went on to hold that the filing of one notice of appeal in respect of all three decisions by the appellant was improper for being ambiguous and uncertain and that the proper way would have been to file three notices of appeal, one in respect of each decision.

[29] The notice of appeal was held to be uncertain because it did not state which of the three decisions was decided on 18 September 2012 and which was decided on 10 October 2012. For context, we reproduce below the material part of the impugned notice of appeal:

NOTICE RAYUAN

> SILA AMBIL PERHATIAN bahawa Responden yang dinamakan di atas tidak berpuas hati dengan keputusan yang diberikan oleh Yang Arif Hakim Nalini Pathmanathan di Mahkamah Tinggi Kuala Lumpur pada 18 September 2012 dan 10 Oktober 2012 menolak semua permohonan Responden bertarikh 5.9.2012, 14.9.2012 dan 18.9.2012 tanpa hujahan oleh kedua belah pihak, merayu kepada Mahkamah Rayuan terhadap keseluruhan keputusan tersebut.

[30] By way of comparison, the notice of appeal in the case before us, which was expressed to be against the whole of the 'decision' and against 'all' the respondents, gives the impression that the appeal was against one decision

only and involving all the respondents. It does not convey with sufficient clarity which particular decision favouring which particular respondent were the appellants appealing against. This makes the notice bad for ambiguity and uncertainty.

[31] In our considered opinion, the defect in the notice of appeal is fatal and cannot be cured by O. 1A of the RCOA. What the appellants should have done was either to file seven separate notices of appeal or alternatively to file one notice of appeal but setting out the details of each decision appealed against. Neither was done by the appellants. On our part we take the view that the second option is the more practical option as it will avoid the filing of multiple records of appeal.

[32] Given the factual matrix of the case, we do not think that the objections raised by the respondents to the notice of appeal can be trivialised as being mere procedural or technical acrobatics. It goes to the jurisdiction of the court. The objections raised are premised on a statutory requirement, a condition precedent to this court entertaining the appeal and not a mere irregularity that can be waived.

[33] It was for all these reasons that we allowed the applicants' applications and struck out the appeal with costs. As for the eighth respondent who did not apply for striking out of the appeal, we have fixed another date to hear the appellants' appeal involving him.